

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MALANJE PHEA,

Petitioner,

v.

CHRISTIAN PFEIFFER, Warden,

Respondent.

No. 2:20-cv-0283 WBS KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Findings and recommendations issued on February 17, 2021, and March 12, 2021, are now before the court.

Background

Review of the two findings and recommendations (ECF Nos. 52, 63) was stayed pending resolution of petitioner's appeal. (ECF No. 67.) Such appeal was dismissed on April 21, 2021. (ECF No. 68.) On October 22, 2021, the stay was lifted, and on November 24, 2021, the district court denied petitioner's amended motion for relief from judgment. (ECF No. 78.) On January 21, 2022, the interlocutory appeal was dismissed. Phea v. Pfeiffer, No. 21-17089 (9th Cir. 2022). The court now turns to the pending findings and recommendations.

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1 February 17, 2021 Findings and Recommendations

2 On February 17, 2021, the magistrate judge filed findings and recommendations (ECF No.
3 52) herein which were served on all parties and which contained notice to all parties that any
4 objections to the findings and recommendations were to be filed within twenty-one days.
5 Petitioner filed objections to the findings and recommendations. (ECF Nos. 55, 58.)

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
7 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
8 court finds the findings and recommendations to be supported by the record and by proper
9 analysis. The February 17, 2021 findings and recommendations are adopted in full.

10 March 12, 2021 Findings and Recommendations

11 On March 12, 2021, the magistrate judge filed findings and recommendations (ECF No.
12 63) herein which were served on all parties and which contained notice to all parties that any
13 objections to the findings and recommendations were to be filed within fourteen days. Neither
14 party filed objections to the March 12, 2021 findings and recommendations.

15 The court presumes that any findings of fact are correct. See Orand v. United States, 602
16 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.
17 See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having
18 reviewed the file, the court finds the findings and recommendations to be supported by the record
19 and by the magistrate judge's analysis. The March 12, 2021 findings and recommendations are
20 adopted in full.

21 Accordingly, IT IS HEREBY ORDERED that:

22 1. The findings and recommendations filed February 17, 2021 (ECF No. 52) and
23 March 12, 2021 (ECF No. 63) are adopted in full;

24 2. Petitioner's motion to stay (ECF No. 51) is denied;

25 3. Petitioner's writ for habeas corpus is DISMISSED due to all claims being either
26 procedurally defaulted, and/or without merit;

27 4. The Clerk of the Court shall enter judgment in favor of respondent; and
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1 5. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
2 § 2253.

3 Dated: January 27, 2022



WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE

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